



FISCAL MEMORANDUM

SB 1362 – HB 1293

April 2, 2014

SUMMARY OF ORIGINAL BILL: Creates the offense of “continuous sexual abuse of a child,” which can be sentenced as a Class A or Class B felony.

Defines “sexual abuse of a child” as the commission of an act upon a minor child that is a violation of aggravated rape of a child between 13 and 18 years of age; rape of a child between 13 and 18 years of age; aggravated sexual battery; rape of a child; sexual battery of a child by an authority figure; soliciting sexual exploitation of a minor, exploitation of a minor by electronic means; aggravated rape of a child; or statutory rape by an authority figure.

Defines “multiple acts of sexual abuse of a child” as:

- a) Engaging in at least one incident of sexual abuse of a child upon three or more children;
- b) Engaging in three or more incidents of sexual abuse of a child upon the same child; or
- c) Engaging in five or more incidents of sexual abuse of a child involving two or more children.

At least one incident of sexual abuse of a child must occur after July 1, 2013.

A person commits “continuous sexual abuse of a child” if:

- Over a period of 90 days or more, engages in multiple acts of sexual abuse of a child under a) or b); or
- Over a period less than 90 days, engages in multiple acts of sexual abuse of a child under c).

Continuous sexual abuse of a child is a Class A felony if at least three of the acts of sexual abuse of a child constitute a violation of aggravated rape of a child between 13 and 18 years of age, a Class A felony; rape of a child between 13 and 18 years of age, a Class B felony; aggravated sexual battery, a Class B felony; rape of a child, a Class A felony; or soliciting sexual exploitation of a minor, exploitation of a minor by electronic means, a Class B felony.

Continuous sexual abuse of a child is a Class B felony if:

- At least three of the acts of sexual abuse of a child constitute a violation of sexual battery by an authority figure, a Class C felony, or statutory rape by an authority figure, a Class C felony; or
- There are less than three acts of sexual abuse of a child for aggravated rape of a child between 13 and 18 years of age; rape of a child between 13 and 18 years of age; aggravated sexual battery; rape of a child; or soliciting sexual exploitation of a minor, exploitation of a minor by electronic means; aggravated rape of a child; but there are at least three acts under any combination of aggravated rape of a child between 13 and 18 years of age; rape of a child between 13 and 18 years of age; aggravated sexual battery;

rape of a child; sexual battery of a child by an authority figure; soliciting sexual exploitation of a minor, exploitation of a minor by electronic means; aggravated rape of a child; or statutory rape by an authority figure.

Authorizes a prosecution for continuous sexual abuse, rather than for each offense individually, and authorizes such prosecution to be brought in any county in which one of the incidents of sexual abuse of a child occurred.

Requires notice to be given to the defendant that the State is prosecuting for continuous sexual abuse of a child.

Requires jury to unanimously agree that defendant committed continuous sexual abuse of a child; does not require the jury to unanimously agree on which specific acts of sexual abuse were committed by the defendant.

Prohibits a defendant from being convicted of continuous sexual abuse of a child and of one or more of the separate incidents of sexual abuse that were identified in the notice. A prosecution for continuous sexual abuse, however, does not bar prosecution in the same action for individual incidents not identified in the pre-trial notice.

Prohibits release eligibility for persons convicted of continuous sexual abuse of a child. Offender must serve 100 percent of the sentence, without reduction from sentencing credits.

Offenders must be sentenced of community supervision for life.

Creates new rule of evidence, based on Rule 413 of the Federal Rules of Evidence, that permits the prosecution to introduce, and for the jury to hear, evidence that the defendant committed any other offense that would constitute a violation of, or an attempt to commit a violation of, continuous sexual abuse of a child; aggravated rape; rape; aggravated sexual battery; rape of a child; sexual battery of a child by an authority figure; soliciting sexual exploitation of a minor, exploitation of a minor by electronic means; aggravated rape of a child; or statutory rape by an authority figure.

The bill contains a severability clause.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures – \$300,000/Incarceration*

SUMMARY OF AMENDMENT (015761): Deletes all language after the enacting clause and rewrites the bill.

Only changes the punishment for “continuous sexual abuse of a child” to a Class C felony when the underlying offenses constituting the continuous abuse are sexual battery by an authority figure or statutory rape by an authority figure, which are both Class C felonies.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

NOT SIGNIFICANT

Assumptions for the bill as amended:

- The proposed legislation will not impact incarceration costs as it does not allow for offenses to be enhanced in terms of punishment.
- Many of the criminal offenses that constitute “sexual abuse of a child” already require the felon to serve 100 percent of the sentence, and the offenses not required to serve 100 percent will be enhanced under the bill. Requiring 100 percent of the sentences for “continuous sexual abuse of a child” to be served will not have a significant impact on incarceration costs.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read 'Lucian D. Geise', is positioned above the printed name.

Lucian D. Geise, Executive Director

/trm